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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,924	04/12/2004	Yat Keung William Yuen	016660-216	2122

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EXAMINER

VU, QUYNH-NHU HOANG

ART UNIT	PAPER NUMBER
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3763

NOTIFICATION DATE	DELIVERY MODE
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10/20/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/821,924	Applicant(s) YUEN, YAT KEUNG WILLIAM	
	Examiner QUYNH-NHU H. VU	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31, 33-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 59 is/are allowed.
- 6) ☒ Claim(s) 1-15 and 19-55 is/are rejected.
- 7) ☒ Claim(s) 16-18 and 56-58 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

Amendment filed on 7/29/08 has been entered.

Claims 1-31 and 33-59 are present for examination.

Claim 22 is cancelled.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **“the closure member is at second position in which said the first opening is open”** of claim 1 must be shown or the feature(s) canceled from the claim(s). According the Specification, it only shows that **“the closure member 66 closes the first opening 68” (Figs. 3 and 10)**.

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

As noted that, Applicant states that: one of ordinary skill in the art would recognize that, based on Figs. 3 and 10, the spring 62, linkage mechanism 58, end pin 64, and lid 66 would be

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movable into a position in which the vent hole 68 can be closed and the lid 66 can be in a second position.

Examiner disagrees. As discussed above: "The drawings must show every feature of the invention specified in the claims". Therefore, Applicant should submit another Figure to support the lid 66 in open position.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Schlensog et al. (US 4,673,388).

Schlensog discloses an electric breast pump including: hood member 101; a chamber 20; a first motor 21 operatively associated with a pumping member; wherein the chamber having a first opening 286 and a closure member 181 or 280 operatively associated with the first motor 21; a first valve 29

when the motor ON (at first position), the cover portion 181 can be pressed downwards, the projection 280 presses the valve 281 downwards against a spring 289 and thereby connects the chamber 207 with the atmosphere through the opening 286. In other words, the closure member (includes 181 and 280) is cooperated with the valve 281 to close the opening 286.

When the motor OFF (at the second position), or the cover portion 181 is released, the spring 289, 230 and the projection 280 upwards, at this point the opening 286 opened (Fig. 2, col. 6, line 4+).

A second valve 254; an adjustment member 282; a third valve 281

It has been held that the recitation that a chamber is "adapted to be in fluid communication with said hood member via a first valve" performing a function is not a positive limitation but only requires the

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ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

Additionally, it is well established that a recitation with respect to the manner in which an apparatus is intended to be employed, i.e., "...operatively associated with a pumping member which is movable to draw air from said hood member into said chamber via said first valve" of claim 1, a limitation "allows air to exit said chamber" of claim 12, functional limitations, do not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim, see In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974)

Claims 30-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Greter et al. (US 6,547,756).

Greter discloses an electric breast pump including: a hood member 16, a chamber; infrared (IR) unit (col. 2, lines 24+); wherein the infrared unit includes microprocessor 60 for transmitter and receiver data (col. 5, lines 24+, col. 6, line 65-col. 9, line 55); a LDC display 48; a motor

It has been held that the recitation that a pumping member, a first motor is "adapted" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

Additionally, it is well established that a recitation with respect to the manner in which an apparatus is intended to be employed, i.e., "...for transmitting IR signal and for receiving ...IR transmitter" of claim 30, the limitation "a time for determining the time ...IR unit" of claim 35; the limitation "...prevented from being received by said IR receiver upon passing of milk therebetween" of claim 36, functional limitations, do not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim, see In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974)

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlensog et al.

Schlensog discloses the invention substantially as claimed. Schlensog further disclose the first motor is engaged with the closure member via the movement of cam 212 and piston 21.

Schlensog does not specifically show the cam includes a ring-shaped structure. However, it is well-known in the motor art to provide a motor includes the cam with a ring-shaped structure for movement between the cam and piston from one position to another position.

Claims 15, 19-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlensog et al. in view of Greter et al. (US 6,547,756).

Schlensog discloses the invention substantially as claimed. Schlensog fails to disclose a wheel member; the chamber includes a sensing unit, data processing unit, and a display.

Greter discloses that the adjustment member manually includes a wheel member (rotary knob) (col. 4, line 5-14); a sensing unit (infrared data transfer or received the data or sensing mechanism), data processing unit, a LCD display 48, see (col. 2, lines 25+, col. 7, line 1-col. 9, line 55).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Schlensog with a manually adjustment member, a sensing, data processing unit and a LCD display, as taught by Greter, for adjusting the suction level as well as rate within a sequence and in order to gain the commonly understood benefits of such adaptation, such as for visually indicating the flow rate of milk into the breast pump.

The display provides visual indications of various function of the pump, for example, the type of sequence then programmed, the level of suction force, the battery condition, and so forth. The sensing

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unit or data processing unit such as microprocessor is capable of downloading or transfer to the chip card.

Furthermore, it would have been obvious to one of ordinary skill in the breast pump art to provide an adjustment member manually in device of Greter, in order to gain the commonly understood such as the device capable to operative without an electric power source, enabling it to be readily transported and used anywhere.

It has been held that the recitation that a sensing unit, a data processing unit, pumping member, a first motor is "adapted to" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

Additionally, it is well established that a recitation with respect to the manner in which an apparatus is intended to be employed, i.e., "...determining the time duration between when passing of milk is detected by the first sensing unit and when passing of milk is detected by said second sensing unit" of claim 24 , functional limitation, does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim, see In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974)

Claims 41-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greter et al. in view of Schlensog et al.

Since claims 41-56 are similar to claims 1-15. Please see the rejections above.

Allowable Subject Matter

Claims 16-18 and 56-58 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 59 is allowed.

Response to Arguments

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Applicant's arguments with respect to claims 1-15, 19-55 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to QUYNH-NHU H. VU whose telephone number is (571)272-3228. The examiner can normally be reached on 6:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763

Quynh-Nhu H. Vu
Examiner
Art Unit 3763